

# Missouri Supreme Court Commission on Children's Justice Interim Report

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law *n.* 1.a. A rule of conduct established by custom, agreement, or authority. b. A body of such rules. 2. A piece of enacted legislation. 3. A judicial system or its workings. 4. The science and study of law; jurisprudence.

justice *n.* 1. The quality of being just; fairness. 2. The principle of moral rightness; equity. 3. The upholding of what is just, esp. fair treatment and due reward in accordance with honor, standards, or law. 4. The administration and procedure of law. 5. Conformity to fact or sound reason. 6. A judge.

welfare *n.* 1. Health, happiness, or prosperity; well-being. 2. Organized efforts, as by an organization, for the betterment of people in need. 3. Financial or other aid provided, esp. by the government, to people in need.

law *n.* 1.a. A rule of conduct established by custom, agreement, or authority. b. A body of such rules. 2. A piece of enacted legislation. 3. A judicial system or its workings. 4. The science and study of law; jurisprudence.

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April 2003



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## **Commission on Children's Justice Members**

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Julie Cole Agee, Executive Director, Missouri Juvenile Justice Association

Susan Block, Judge, 21<sup>st</sup> Judicial Circuit

Beth Dessem, Executive Director, Missouri Court Appointed Special Advocate Association

Pat Dougherty, State Senator, District 4

Bill Foster, State Senator, District 25

Thomas Frawley, Judge, 22<sup>nd</sup> Judicial Circuit

Deanna Gallagher, Missouri Council for Children at Risk

Catherine Hanaway, Speaker, Missouri House of Representatives

John C. Holstein, Judge, Missouri Supreme Court, Retired (Chair)

Peter Kinder, President Pro Tempore, Missouri Senate

Patrick Lynn, Senior Policy Advisor, Office of the Governor

Frank L. Martin, III, Journalist, West Plains

Glenn Norton, Judge, Missouri Court of Appeals, Eastern District (Vice-Chair)

John F. Payne, Family Court Commissioner, 16<sup>th</sup> Judicial Circuit

Nancy Rahmeyer, Judge, Missouri Court of Appeals, Southern District

Steve Renne, Acting Director, Missouri Department of Social Services

Roy L. Richter, Judge, 12<sup>th</sup> Judicial Circuit

Melanie Scheetz, Executive Director, Foster and Adoptive Care Coalition

Betty Sims, State Senator (Retired), St. Louis

Bryan P. Stevenson, State Representative, District 128

James E. Welsh, Judge, 7<sup>th</sup> Judicial Circuit

Yvonne S. Wilson, State Representative, District 42

Andrea Whitfield, Missouri Division of Family Services, St. Louis

Anita Yeckel, State Senator, District 1

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Thea A. Sherry, Associate Circuit Judge, St. Louis County, served as liaison between the Commission on Children's Justice and the Child Abuse, Custody and Neglect Commission.

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## **Commission Staff**

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Gary Waint, Division Director, Juvenile and Adult Court Programs, Office of State Courts Administrator

Norma Rahm, Juvenile and Adult Court Programs, Office of State Courts Administrator

Lynette Ricks, Juvenile and Adult Court Programs, Office of State Courts Administrator

Shawn R. McCarver, Attorney/Technical Advisor, Farmington, Missouri

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## Creation of the Commission on Children's Justice

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When two-year-old Dominic James died in the fall of 2002 while residing in a foster home in Willard, Missouri, Governor Bob Holden immediately initiated an investigation of the child welfare system in Greene County. Governor Holden appointed Judge Frank Conley (ret.) and Dick Dunn to conduct the investigation, which centered on the state of the child welfare system in Greene County, not the specifics of the Dominic James case. A report containing key findings and recommendations was submitted to the Governor in November 2002.

Additionally, in response to concerns with the child welfare system expressed by child advocates and other interested parties throughout the state, Senate President Pro Tem Peter Kinder named an Interim Committee on Children's Protective Services and Foster Care. The Interim Committee was to conduct a statewide review of children's protective services, focusing on foster care and child abuse and neglect (CA/N) investigative procedures. Primarily, the Interim Committee was to review applicable laws, regulations and policies related to Children's Protective Services, to study the range, level and types of services provided by the state and private organizations, and to make recommendations for improving state laws and policies for the benefit of Missouri's children. This committee reported that it found a number of statewide concerns and called for implementation of statewide reforms in both the child welfare agency and the state's juvenile and family courts.

In January 2003, under the leadership of Chief Justice Stephen Limbaugh, Jr., and in cooperation with the Office of the Governor and the Missouri General Assembly, the

Supreme Court created the Commission on Children's Justice ("Commission"). The Commission was established for the expressed purpose of unifying the three branches of government so that comprehensive solutions to child welfare problems could be made in a consistent and rational manner.

The Commission is to submit this Interim Report to the Supreme Court, the Governor and the General Assembly. Included in this report is a proposed date for completion of a Final Report. In the Final Report, the Commission is to recommend concrete changes necessary to improve children's safety, to strengthen and support families, and to restore public trust and confidence in the state's child welfare system.

Prior to rendering this interim report, Commission members met weekly in Jefferson City during February and March. Commission members reviewed the recent investigative reports submitted to the Governor and the Senate Interim Committee to Improve Children's Protective Services in Foster Care. Commission members also reviewed other reports, studies, materials and proposed legislation as deemed appropriate. The Commission heard presentations on new proposed legislation, received communications from a variety of sources including public and private agencies and private individuals, and heard testimony on proposals for change to the current system affecting all three branches of state government.

What follows is a summary of the information submitted to the Commission for its consideration, as well as the Commission's preliminary findings and recommendations.

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## Investigative Research of the Commission

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The views, statements and opinions of the witnesses summarized herein are intended to reflect the testimony of the presenter and do not necessarily reflect the views of the Commission or any of its members.

### ***Report on the Investigation of the Child Welfare System in Greene County, Missouri***

The Commission heard testimony and considered the written report prepared by Judge Conley and Mr. Dunn concerning the state of the child welfare system in Greene County. Mr. Dunn orally reported to the Commission that his investigation revealed a lack of public confidence in the Greene County child welfare system and that the system is dysfunctional in several respects.

The report concluded that the Division of Family Services (DFS) social service workers cared for the clients. However, the report also concluded that the system had broken down for the following reasons: an imbalance between caseloads and staff resources, lack of managerial supervision and poor training, ineffective background checks of providers and a dysfunctional family support team system. The report also concluded that parents and community members had no reasonable recourse to challenge the actions of the system, and that the system was ineffective in providing families a meaningful role in solving their own problems. Finally, the report concluded that there was a substantial disconnect between two major partners in the system—DFS and the juvenile court.

The report contained several recommendations: (1) The creation of an Office of Ombudsman; (2) the establishment of a citizen review panel; (3) the evaluation

of the current policies and procedures for background checks of providers; and (4) the creation of a community and court liaison program.

### ***Report of the Senate Interim Committee on Children's Protective Services and Foster Care***

The Senate Interim Committee heard public testimony similar to that heard by Judge Conley and Mr. Dunn. Senator Bill Foster, Committee Chair, informed the Commission that numerous citizens throughout the state expressed concerns with the juvenile court process, including the feelings of many parents that they had limited access and therefore little recourse in dealing with the court system. Additionally, there was little accountability within the system because child abuse and neglect proceedings were closed to the public, and that, too often, long periods of time elapsed between the removal of children and the initial court appearance. All of this contributed to the public's lack of trust and confidence in the system.

The Senate Interim Committee also heard criticisms with how DFS responds to child abuse and neglect cases. Specifically, concerns were expressed over how the division conducts hotline investigations and the inadequacy of pre-removal services that were offered to families to prevent placement of a child in foster care. There also were reports of a lack of consistency in the CA/N investigation-child removal-decision-making process, and that relatives were given little consideration as temporary, out-of-home care providers when children were removed. Finally, there were numerous allegations that DFS workers and juvenile officers exercised significant power and lack of accountability in the use of that power.

The Senate Interim Committee proposed the following recommendations for improvement:

- Utilization of the *Best Practices Guidelines*<sup>1</sup> previously developed at the direction of the Missouri Supreme Court.
- Renewed emphasis on family preservation prior to removal of a child.
- The use of kinship care as a first alternative when a child is removed from the home.
- The development and implementation of uniform procedures by DFS.

### **The Victoria Climbié Inquiry**

The Commission received and reviewed an extensive report on the Victoria Climbié inquiry, chaired by Lord Laming concerning the child welfare system in the United Kingdom.

The report made 108 recommendations for improvement in the child welfare system in the UK following the abuse, neglect and

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<sup>1</sup> The Supreme Court established the Permanency Planning Project of the Family Court Committee to develop a statewide comprehensive approach, under the leadership of the judiciary, for assuring that abused and neglected children placed by the court in out-of-home care achieve timely permanency. In response to the Project's recommendations, then Chief Justice Wm. Ray Price directed the Family Court Committee to develop a Missouri-specific "Best Practices" resource guide for use by trial courts in abuse and neglect cases.

The Resource Guide is designed to complement, not replace, state and federal statutes and court rules, and the Best Practices recommendations are offered to assist courts in their efforts to improve court practice in child abuse and neglect cases. The *Missouri Resource Guide for Best Practices in Child Abuse and Neglect Cases* has been developed to provide judges with a comprehensive and "user friendly" reference tool for use during the court process.

ultimate death of a young child. The report cited management issues and recommended extensive changes at both the local and national level. The changes included greater accountability, more timely exchange of information, the establishment of certain databases, adequate funding for the system, improved training of and supervision over employees, and documentation of and improvements in procedures and practices.

### **Michigan Lieutenant Governor's Children's Commission**

The Commission received and considered the report of the Binsfeld Commission on Michigan's child protection system. That Commission specifically examined programs concerning the removal of children from abusive households, the placement of children in foster care, the reunification of families and the permanent placement of children. The Michigan report, issued in July 1996, contained 197 recommendations for program, policy and legislative changes to the child protection system.

### **Reorganization of the Department of Social Services**

During the course of deliberations, the Commission heard from Denise Cross, Director of DFS, concerning the proposed reorganization of the Department of Social Services (DSS). Under the reorganization, DSS programs related to medical services and youth services would remain unchanged. However, the current Division of Family Services and the current Division of Child Support Enforcement would be eliminated and two new divisions created. The first division, the Family Support Division, would combine the existing functions of child support enforcement and the income maintenance programs. The second division, the Children's Services Division, would administer all children's

services, childcare and early childhood programs.

Additionally, under the reorganization plan, child support enforcement payment processing would be transferred to the Department of Revenue while the child support enforcement parent's fair share program and the temporary assistance for needy families job development program would be transferred to the Department of Economic Development.

The Division is also moving towards a regional approach to investigating child abuse and neglect hotline reports. It is hoped that this approach, organized around judicial circuits, will improve consistency in decision-making and increase the agency's accountability.

### **State Budget Issues**

Missouri is presently facing its most severe budget crisis in decades. Linda Luebbering, State Budget Director, made a presentation to the Commission and reported that Missouri is facing a shortfall of approximately \$1 billion for fiscal year 2004. Revenue collections have stagnated while expenses in social service departments have increased.

#### **■ Department of Social Services**

In state fiscal year 2003, the total appropriation for Children's Protective Services programs was \$216,865,132. The Governor's recommendation for FY 2004 is \$223,730,505. Although other agencies have had monies withheld from their budgets, there have been no monies withheld by executive action for children's services in 2002 or 2003. However, certain payments such as foster care special expenses have been cut in order to stay within the budget allocation. A large percentage of the DSS/DFS budget is comprised of funds

obtained from a variety of federal funding streams.

#### **■ Division of Family Services – Children's Services**

The DFS provided the following pertinent information:

- The number of children per 1000 in the custody of DFS at anytime during the year has increased from 11.77 in 1998 to 13.28 in 2002.
- The length of stay in DFS custody has decreased over time from 27.5 months in 1998 to 24 months in 2002.
- Of the children who were discharged from DFS care and custody, 50% were returned home, 20.3% were adopted and 8% were placed with a legal guardian. The remaining percent were placed in long-term relative care or "other."
- DFS is currently allocated 1,384 social workers and would need an additional 432 workers to meet national accreditation standards.

### **The Child Abuse and Neglect Reporting System**

The Commission heard testimony from the DSS on Missouri's response to reports of suspected child abuse and neglect and learned that for state fiscal year 2002:

- Missouri has the second highest rate of child abuse and neglect hotline calls in the country, 73.2 referrals per every 1,000 children.
- Sixty-one percent of the reports resulted in a determination of "no intervention or services needed" and 39% resulted in a determination of "intervention or services needed."

After reports are taken, they are forwarded to the county DFS offices where a worker is assigned. At the present time, the county



office determines whether the referral should be assigned to the investigative or family assessment track. The Department is planning to transfer the responsibility for making this assignment to the Central Registry Unit (the hotline) in order to assure more consistency in how reports are classified.

The Commission also heard information about mandated reporter referrals, acceptance of reports from anonymous reporters and the length of time identifying information on the subjects of reports is maintained, particularly when reports are coded as unsubstantiated.

### **Structured Decision-Making**

DFS is piloting a Structured Decision-Making (SDM) model in Missouri that is designed to bring structure and consistency to critical decision-making points in the child welfare system through the use of assessment tools that are objective, comprehensive and easy to use.

The SDM model is currently being initiated at the state level Central Registry Unit (the hotline). DFS employees who staff the hotline telephones 24 hours a day, 7 days a week, 365 days per year, must make initial decisions concerning the categorization of hotline calls, including a risk assessment, all of which help to facilitate a prioritization of response.

DFS plans to extend SDM to the individual counties that process the hotline calls referred to them by central hotline staff. The purpose is to insure that all investigative workers utilize a consistent, objective decision-making process. A safety assessment would be conducted to determine if it is safe for the child to remain in the home, to assess the likelihood of future harm, and to guide development of any necessary services. DFS is several

months away from full implementation of SDM at the county level.

### **The Juvenile Court Improvement Project**

The Juvenile Court Improvement Project (JCIP), which is already implemented in three circuits, addresses the expeditious handling of child abuse and neglect cases. The JCIP focuses on timely and thorough judicial reviews and requires the following:

- Protective custody hearings be held in all cases where a child is removed from the home.
- Adjudicatory hearings be held within 60 days of removal from the home.
- Review hearings be held every 90 days with permanency hearings at least annually.

The project emphasizes timely permanency decision-making. It requires the filing of petitions to terminate parental rights and to place children for adoption or in other permanent living arrangements where the abuse or neglect is so severe that reunification efforts are not warranted or where children languish in foster care without circumstances being remedied by the parents. The project is funded through a combination of a federal grant and state funds.

### ***Missouri Resource Guide for Best Practices in Child Abuse and Neglect Cases***

In the spring of 2001, Chief Justice William Ray Price directed the Family Court Committee to develop a concise, comprehensive reference tool for juvenile and family court judges and commissioners to use during court proceedings in child abuse and neglect cases. In response to this directive, the Family Court Committee created the *Missouri Resource Guide for Best Practices in Child Abuse and Neglect Cases*. In January 2002, the first installment of the *Resource Guide* was distributed to all

the judges and commissioners who hear these matters. Work on the second installment of cards is presently underway and will be distributed in spring 2003.

The purpose of the guide is to incorporate, in an organized and procedural fashion, the applicable Missouri statutes and Supreme Court Rules and requirements of the Adoption and Safe Families Act of 1997 (P.L. 105-89).

In addition, multi-disciplinary regional workshops, including judges and family court commissioners, juvenile officers, attorneys, GALs/CASAs, and DFS workers and supervisors are scheduled at five sites around the state. These cross-training workshops, scheduled for May and June 2003, are designed to assist courts and other key stakeholders in the utilization and implementation of the Best Practices recommendations contained in the *Resource Guide*.

Both the court improvement project referred to herein above and the *Best Practices Resource Guide* described in this section were developed in an effort to insure Missouri's compliance with the mandates of the federal Adoption and Safe Families Act, on which much funding for children in foster care is based.

### **Report Concerning the Evaluation of Open Hearings and Court Records in Juvenile Protection Matters State of Minnesota**

On June 22, 1998, Minnesota joined 16 other states that opened up some portion of their juvenile protection proceedings and records to the public. The pilot program consisted of 12 counties in Minnesota over a three-year period. The purpose was to increase the level of accountability of judges, juvenile officers and family service workers, and to restore public trust and

confidence in Minnesota's child welfare system. An evaluation of the impact of open hearings/records was conducted in five critical areas including (1) hearings, (2) records access, (3) potential for harm, (4) public awareness and professional accountability and (5) overall impact.

With respect to open hearings, Minnesota found there was a slight increase in attendance of such hearings but that closures of protection hearings occurred very infrequently. The content of courtroom documents, exhibits and statements was not significantly affected by the opened hearings/records. Open hearings and records also did not have much of an effect on court procedures.

Few record requests were made and the principal requestors were county attorneys, social workers and others in the system. Requests for records were more frequent during the beginning stages of the pilot, but became less of a burden with the passage of time.

With respect to potential for harm, open hearings/records have not resulted in documented direct or indirect harm to any parties, with the possible exception of a sensational case occurring in one of the counties. Media and public interest waned after the beginning of the pilot program. Filings of dependency/neglect cases increased in eight of the 12 pilot counties, contrary to the expectations of the "dampening" hypothesis. There was a decrease in filings in other counties involved and, collectively, the results suggest that open hearings/records had minimal impact on dependency/neglect case filings in pilot counties.

Open hearings/records seemed to increase scrutiny and attendance in such hearings. Survey respondents were significantly more likely to feel that professional accountability

had increased as a result of opening hearings and records.

The report concluded that the overall impact of open hearings/records on the child protection system has been very limited. The media continues to focus on sensational cases, providing little coverage of other cases. The evaluation was able to document only a handful of cases that, because of open hearings/records, may have caused harm to children and families.

### **Presentation of Judge Andrew Jackson Higgins Concerning Open Hearings and Records in Missouri Juvenile Cases**

Supreme Court Judge Andrew Jackson Higgins (ret.) spoke to the Commission about open hearings and records in Missouri juvenile abuse/neglect cases. Judge Higgins pointed out that the current statutes provide procedures for opening hearings and making public certain records.

Judge Higgins reviewed the legislative history related to procedure concerning open hearings and records. The policy of Missouri is the “best interests of the child,” and he urged the Commission to be cautious and selective in changing existing policies and laws related to confidentiality of hearings and records. Judge Higgins urged the Commission to make no change to existing laws related to opening hearings or availability of records.

### **Privatization of Child Welfare Services**

The Commission heard evidence concerning privatization efforts in the State of Illinois. In Illinois, the centralized hotline unit and investigation functions are retained by the state while other services are privatized, beginning in the more urban areas of the state.

The Commission was advised that the initial cost of privatization is higher, but the overall cost ultimately stabilizes. It was reported that privatization carries with it the benefits of increased public trust. Full-time employees are moved from the state payroll to private payroll. That private providers can terminate the employment of problem employees quicker than the state can do so was seen as a benefit. Finally, it was felt that the system in Illinois has benefited from a substantial and overall improvement as a result of privatization using performance based contracts.

In Missouri, approximately 10% of services are privatized, of which approximately one-third are available in the St. Louis area.

### **State Auditor’s Report of the Child Abuse and Neglect Reporting and Response System**

State Auditor Claire McCaskill presented the December 28, 2000, audit of the child abuse and neglect reporting and response system. The State Auditor’s report is extensive and contains 29 findings including recommendations for implementation of the SDM model currently underway at the hotline. A performance audit of the Department of Social Services foster care program is pending and will be available for future consideration by the Commission.

### **Unlicensed Residential Care Facilities**

The Missouri Coalition of Children’s Agencies (MCCA) and Citizens for Missouri’s Children (CMC) provided information on the issue of establishment of standards for 24-hour child caring facilities (reformatories) that are exempt from state licensure requirements. MCCA, CMC, and MJJA support enactment of some level of health and safety standards, such as fire safety and sanitation, in order for these facilities to operate in the state. Currently,

no such requirements exist in Missouri. Possible solutions include having separate programs for faith-based institutions or having the standards of such institutions merged with DFS standards in some way. MCCA also recommended that Missouri renew its emphasis for DFS accreditation with a set deadline for completion.

### **Domestic Violence**

The Missouri Coalition Against Domestic Violence provided information on how child welfare agencies and the courts respond to incidents of domestic violence when children are involved. Their agency has been working with DSS since the early 1990s to address appropriate responses to domestic violence and the co-occurrence of child maltreatment. The Coalition recommended statewide implementation of the “Green Book” initiative currently underway in St. Louis County. This initiative is a system-wide community-based response designed to insure safety of the non-offending parent and children while holding the perpetrator of the abuse accountable for his or her actions.

### **Testimony of John Mattingly Annie E. Casey Foundation**

John Mattingly, Senior Associate with the Annie E. Casey Foundation, made a presentation to the Commission. The Foundation is the largest private foundation in the nation dedicated to child welfare issues.

Mr. Mattingly addressed the “Family to Family” Program that began 10 years ago, which is now in 32 cities and is currently being initiated in St. Louis City. Family to Family was started because too many children are placed in foster care and siblings were frequently sent to separate homes. Often children are placed in care because workers are overwhelmed or because workers lack the time or training to

help families stay together. One solution is to require team decision-making similar to the Family to Family model prior to or immediately following placements. The team’s role is to assist the worker in developing strategies to prevent removal and when removal is necessary, to help secure placements that keep siblings together and keep children placed in their own communities.

Mr. Mattingly cautioned that real solutions could take as many as 10 years and that the solutions should begin on the front lines (i.e., with workers) by giving them the support they need to do a good job. He recommended Missouri invest in its child welfare system by reducing the caseloads of the workers.

### **Testimony of Jess McDonald Illinois Department of Children and Family Services**

Jess McDonald, Director of the Illinois Department of Children and Family Services (DCFS), informed the Commission of the results of reform efforts in the Illinois DCFS. These reforms have resulted in a reduction in the number of children removed from their homes, the total number of children in out-of-home care, and the length of time children spend in care. In addition, fewer children are in residential or out-of-state placements. Mr. McDonald believes that kinship care is the best placement because children return to the home sooner when placed in kinship care and that Missouri could make improvements in this area. The results were achieved from improvements made through accreditation and by privatization using performance based contracts, as well as from a focus on prevention and family preservation.

Worker caseloads also were reduced from 40 children per social worker in the mid-1990s to 16 children per social worker at the

present time. Mr. McDonald stated that beginning caseworkers must have a bachelor's degree and earn between \$25,000 and \$35,000 a year.

Mr. McDonald cautioned against holding workers personally liable. It is his position that this not an appropriate or productive approach. Instead, he believes that when poor performance occurs, it is more likely the fault of an administration that failed to give the line staff the support and resources necessary to adequately perform their duties.

### **Testimony of Richard Wexler National Coalition for Child Protection Reform**

Richard Wexler, Executive Director of the National Coalition for Child Protection Reform, testified that he believes Missouri's child welfare system actually hurts children rather than helps them because it places too many children in foster care. Mr. Wexler acknowledged that children have been injured or killed when left in the homes of their natural parents; however, that due to overwhelming caseloads, Missouri's child welfare workers do not have the time needed to protect children once they are removed and placed with out-of-home care providers.

Mr. Wexler recommended that a number of system reforms be implemented, with a particular emphasis placed on increasing the availability and utilization of family preservation services to support children in their homes and prevent placements. This would result in freeing up workers to serve those children and families who have the most critical need for intervention and services.

### **Presentation of Sara Barwinski Concerning Missouri's Adoption of Community Partnerships for Protecting Children**

Sara Barwinski made a presentation to the Commission concerning the Community Partnerships for Protecting Children program. This program was launched in four cities in the United States including St. Louis, Missouri.

After implementation, St. Louis saw a reduction of 853 children in foster care, while, during the same time period (2001 – 2003), the state as a whole has seen a reduction of only 127 children in foster care. Taking St. Louis out of the picture, the state as a whole saw an increase in the number of children entering foster care during the same time period.

The program is centered on the following four key components that must be implemented jointly: (1) Individualized course of action, (2) neighborhood network of available resources, (3) culture change among child protective service workers, and (4) capable local leadership and decision-making.

This program has been introduced and is now under implementation in eight additional Missouri counties. Ms. Barwinski recommends adoption of this program throughout Missouri.

## **Presentation of Jeffrey N. Wherry**

Professor Wherry, speaking on behalf of the Children's Advocacy Center of Greater St. Louis (University of Missouri – St. Louis), reported to the Commission the staggering costs of child abuse and neglect.

Professor Wherry noted that a short-term solution to the problem is the systematic screening of parents and children using specific scientific instruments designed to give valid indicators of child abuse and neglect. A long-term solution is licensing, training and certification of professionals in the system.

## **Other Communications to the Commission**

The Commission received and considered a number of letters, e-mails, reports and other communications. A listing of all materials presented to the Commission can be found in Appendix A of this report.

## **Review of Proposed Legislation**

The Commission received copies of numerous new legislative proposals. The majority of these bills proposed revisions to state laws that impact the policies, practices and procedures of DFS and, in some circumstances, the role and responsibility of juvenile officers in child abuse and neglect cases. In addition, several bills proposed procedural changes to the juvenile court process in child abuse and neglect cases. The majority of these bills focused on many of the same issues identified in the *Governor's Report* and the *Senate Interim Report*.

Key issues included in the proposed legislation include the need to:

- Improve accountability of both the agency and the courts
- Open DFS and juvenile court proceedings and records
- Increase services to prevent removal
- Prioritize relative placements when children must be removed
- Provide a third party mechanism, such an ombudsman or citizen review panel for the public, particularly parents, to have their concerns addressed
- Require stricter licensing standards for care providers, including additional requirements for conducting background checks of applicants and current providers
- Require performance-based standards for foster parents

The Commission also heard presentations from Representative Mark Wright on House Bill 396, Senator Pat Dougherty on Senate Bill 43 and Senate Bill 543, and Senator Norma Champion on Senate Bill 430.

A complete copy of the proposed legislation submitted to the Commission can be found in Appendix B of this report.

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## Identification of Key Issues

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Commission members first tackled identifying key issues and items pertaining to these key issues that needed to be addressed. The key issues identified are:

- Prevention and Efforts to Prevent Removal
- Hotline Intake
- Foster and Relative Care, Permanency
- Judicial/Court

Next, work groups were formed to more comprehensively explore each key issue and focus work group member's discussions on short- and long-term solutions. Items listed under each key issue were intended to assist and not limit the work group's discussions. Following are the related items for each key issue:

### **Prevention and Efforts to Prevent Removal**

- Focus should be on prevention
  - Provide more "up front" services to families to prevent removal (Dunn/Conley)
- Reduce children's services worker (CSW) turnover
  - Reduce CSW case-load size (Dunn/Conley)
  - Caseload distributed by high/medium/low risk
  - Cross training with court staff
    - Adequate CSW supervision
- CSW performance standards
  - Worker contact standards for high/medium/low risk families
- Structured decision-making
  - Implement use of consistent child safety assessment, validated risk assessment, interventions and supervisory review

- Court and community liaison program (Dunn/Conley)
  - What role can the community play in addressing problems/supporting families?
- Criteria to differentiate Family Assessment Process from Investigation Process

### **Hotline Intake**

- Structured decision-making
  - CSW field staff use the structured decision-making tools
    - Child safety assessment, risk assessment and interventions
    - Special needs of child
    - Cross training of Juvenile Officers on SDM model
- Family to Family team decision-making
- Screening for prior Order of Protection
  - Statewide system linking all MO counties for Orders of Protection
- Access to information statewide
- Communications with other agencies
- All CA/N investigations forwarded to juvenile officers
- Criteria to differentiate CA/N process from family assessments

### **Foster and Relative Care, Permanency**

- Assure relative/kinship care providers always considered as first alternative at time of removal and throughout process (Senate Interim Committee, State of Judiciary)
- Background screening and assessments of all applicants (Dunn/Conley)
  - Allow juvenile officer to conduct Missouri Uniform Law Enforcement System (MULES)/National Crime Information Center (NCIC) background check on all applicants

- Screening for prior Order of Protection
  - Statewide system linking all MO counties for Orders of Protection
  - All orders of protection sent to juvenile officers
- Foster parents' access to foster child's information
  - Special needs of child
- Immediate services for child (Can't wait)
  - Family friendly procedures: How to expedite payments, access to Medicaid benefits
- Privatization of foster care
  - Performance-based contracts
- Performance measures for foster parents
  - Ongoing evaluations
  - Cross-discipline evaluations: DFS, foster parents, JO/DJOs
- Title IV-E waiver (Melanie Scheetz)
- Family Support Team (FST) meeting policies and practice
  - Team members, purpose, frequency of meetings
  - Increase family, foster parent participation (SB430, counsel for parents, GAL, CASA, school, extended family)
  - Mandatory team meetings, time frames
  - Recording discussions and decisions, who keeps the records
  - Access to family support team meetings
  - Consistent team process
- Community citizen review panels/other review methods (Dunn/Conley, SB43)
  - Purpose, membership, structure

### **Judicial/Court**

- Court Process
  - Best Practices Guidelines Manual for Abuse and Neglect Hearings (State of the Judiciary)
  - Cross training judges, DFS worker, juvenile court staff, GAL's

(Dunn/Conley, and State of Judiciary)

- Time standards timeliness for hearings
  - Protective Custody hearing 3-7days in all cases
  - Mandatory court/status meeting with parties
  - Frequency of additional hearings
- Open juvenile court proceedings
- Open CA/N court hearings
  - Public access to juvenile court records
- Juvenile Officer
  - Consistent practices for juvenile officers/staff, i.e. standardized child safety assessment for removal along with DFS
  - Information sharing, communications with other agencies, MOJJIS

### **Members of the Four Work Groups**

#### **Prevention and Efforts to Prevent Removal**

Members: Senator Pat Dougherty (work group leader), Senator Betty Sims, Judge Susan Block, Julie Cole Agee and Andrea Whitfield

#### **Hotline Intake**

Members: Senator Bill Foster (work group leader), Senator Anita Yeckel, Judge Roy Richter, Patrick Lynn and Frank Martin

#### **Foster and Relative Care, Permanency**

Members: Melanie Scheetz (work group leader), Representative Yvonne S. Wilson, Deanna Gallagher, Steve Renne, Judge James E. Welsh and Judge Nancy Rahmeyer

#### **Judicial/Court**

Members: Judge Tom Frawley (work group leader), Representative Bryan P. Stevenson, Speaker Catherine Hanaway, Beth Dessem and Commissioner John Payne



### **Initiatives Currently Underway**

- Establish Ombudsman for independent oversight (Senate Interim Committee, SB43)
- *Missouri Resource Guide for Best Practices in Child Abuse and Neglect Cases*, Missouri Supreme Court, Family Court Committee (State of the Judiciary)
- *Best Practices* cross training for judges, DFS workers, juvenile officers, attorneys and GALs/CASA scheduled for 5 regions in the state (State of the Judiciary)
- DSS reorganization

### **Interim Reports of Work Groups**

Work groups were charged with defining the critical items needing improvement within their assigned key issue and, whenever possible, offering preliminary solutions for further consideration by the entire Commission. The Chair advised members that although their work was preliminary in nature, their recommendations would guide the future work of the Commission and, as such, would be included in the interim report.

Although preliminary and limited by time constraints, each work group reported several proposed recommendations to the Commission. In addition, each work group identified critical items they believe must be addressed in order to effect both short-term and long-term solutions.

### **Prioritization**

The Commission next focused on prioritizing the proposed solutions offered by each work group. Each member ranked, in order of his or her individual preference, three proposed solutions for each key element. The criteria for selection and ranking was based on which of the proposed solutions each member believed the Commission should recommend

as a priority to improve children's safety, to strengthen and support families and to restore public trust and confidence in the state's child welfare system.

Balloting resulted in the identification of 12 priorities. No one key issue was identified to take precedence over any other. Rather, Commission members believe that all four key issues merit immediate and simultaneous attention. Additionally, members feel that while every item listed under each key issue is an important factor to be considered, this listing is not exhaustive and additional items can be added at any time during the course of the Commission's ongoing work.

Finally, in order to help focus the work of the Commission, members agreed to formulate their preliminary recommendations according to the priorities established through the balloting process. The 12 identified priorities, in order of ranking, are as follows:

### **Prevention and Efforts to Prevent Removal**

- 1) Strong family preservation services
- 2) Increased pay for child protective service workers
- 3) Relieve workload of DFS staff

### **Hotline Intake**

- 1) Structured decision-making
- 2) Family to Family team decision-making
- 3) Screen for orders of protection

### **Foster and Relative Care, Permanency**

- 1) Kinship care
- 2) Best practices
- 3) Alternative care

### **Judicial/Court**

- 1) Status conferences
- 2) Time standards
- 3) Open hearings

## Work Group Recommendations Under Consideration by the Full Commission

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Following consideration of the testimony, reports and other materials presented to the Commission on Children’s Justice, the Commission acknowledges that the child welfare system in Missouri is in need of reform. Therefore, the Commission submits the following recommendations for improvement, many of which it believes can be accomplished in a relatively short period of time, while others will require a long-term commitment of leadership, time and resources from all key stakeholders in order to accomplish effective and lasting reform.

### 1. Prevention and Efforts to Prevent Removal

Work group members developed the following recommendations within the framework of one overarching principle—that public policy assure statewide consistency so that every child and family receives the same high-quality and consistent protection and assistance. Recommendations were designed to give priority to assuring the safety and well-being of children in their own homes. First, the work group identified the need to allocate more funds and resources on prevention

efforts in order to deliver more “up-front” services to children and families.

Second, the work group noted that once a referral is made, every effort must be made to provide to the child and his or her family all the services necessary to allow the child to safely remain in

the home. This re-prioritization of resources will not only serve to prevent or to reduce the occurrence of child maltreatment, ultimately it will reduce the number of children who must be removed from their homes and placed in out-of-home care.

In order to achieve these goals, the work group looked at methodologies relating to what critical pieces need to be in place to best serve the needs of the child and the child’s family.

the Commission on  
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### Work Group Recommendations Under Consideration by the Full Commission:

1. DFS must develop a mission and vision statement and develop and implement a Strategic Plan.
  - Key stakeholders participate in this development (such as parents, clients, community, DFS front-line workers, foster parents, juvenile officers, and deputy juvenile officers).
  - Require a more comprehensive, unified and uniform DFS organizational structure, to include the state, area and county offices.

- DFS front-line workers must be involved in all levels of the organizations' decision-making process.
  - Recruitment and retention of DFS staff must be addressed. This can be accomplished through the provision of an increased and comprehensive salary package, including incentives, to attract and retain quality personnel and assist in improving worker morale.
  - Adoption of a policy that DFS focus on family preservation efforts, services and resources, and require that they be offered and provided to families on the front end in order to keep children (where appropriate) safe in their homes and reduce the number of out-of-home placements.
  - Policies and practices of DFS and courts should emphasize enhanced communication protocols/mechanisms (internally, inter-agency, intra-agency, with parents, foster parents and externally to include the community).
  - Utilization of community-based organizations to respond to "child well-being" calls to the hotline, which will free up DFS front-line workers to focus on critical hotline reports.
2. DFS shall achieve accreditation within five (5) years.
    - This will assist in reduction of worker caseload size, more appropriate staff to child ratios and enhanced worker morale, and should translate to enhanced service provision to children and their families.
  3. Structured decision-making and performance-based standards for workers must be implemented throughout the entire case process. This will help to best assure the most critical cases are handled immediately and address the need to achieve enhanced accountability.
  4. Training standards for DFS staff at all levels should be mandated. Cross-training between DFS and courts (judges, juvenile officers, deputy juvenile officers and CASAs and GALs) also should be a part of mandated training which would enhance the ability to have high-quality statewide consistency, understanding and implementation of laws, policies, etc. This should not be limited to front-line workers, but should include all levels from the state office to area offices to front-line workers.
  5. A court/DFS/community liaison program, representing the ultimate in collaboration, should be developed in each judicial circuit to help rebuild the public's trust in the system.

## 2. Hotline Intake

Based on information provided by DFS, the work group learned that there were over 100,000 hotline calls made to the Central Registry Unit (hotline) in FY 2002, many of which did not rise to the level of investigation by DFS. However, division workers are expected to respond to each hotline call as assigned, while still managing their caseloads of open cases where the child/children remain in the home and

caseloads of children placed in foster care. These caseworkers provide services not only to the children but also to the parents and other caretakers.

Of the more than 100,000 calls made each year, approximately 17.5% are coded unable to be investigate, 28.8% result in a referral, such as a child or family in need of services, and 53.7% are actually investigated for abuse or neglect.

## **Work Group Recommendations Under Consideration by the Full Commission:**

- For child assistance and services that do not rise to the level of a child abuse/neglect hotline investigation or family assessment, a “Child Well-Being” referral should be made to local DFS contracted providers for follow-up of appropriate services or community resources and other assistance.
- For the other 53.7% of hotline calls that rise to the level of a child/abuse/neglect investigation, the “Structured Decision-Making (SDM) Model for Child Protection Services” should be utilized. This model will include a response priority and a standard child safety protocol/assessment to evaluate the immediate danger of severe harm, determine interventions to provide protection and establish criteria for emergency removal.
  - A risk assessment must be done by the completion of the investigation to document probabilities of continuing abuse or neglect.
  - In addition, at the completion of the investigation a “Family Strengths and Needs Assessment” should be completed to help determine the level of services and drive case planning for those cases that are opened for services.
  - Local court personnel, GALs, CASA workers and judges must be cross-trained on the SDM model and assessment instruments.
- Multidiscipline Team Decision-Making should occur during the course of a child abuse/neglect investigation whenever the removal of the child from the home is contemplated.
- Family Support Teams must be convened as soon as possible when a child is taken into judicial custody due to emergency circumstances of severe or threatened harm to discuss placement options.
- Juvenile and family court personnel and DFS children services workers must screen for orders of protection and criminal history. In the course of investigation, workers and court personnel must have the automation infrastructure and configurations to conduct criminal background checks for non-active and active orders of protection on adult caretakers and to conduct similar inquiry for prospective custodians of the child. Currently, juvenile officers have been granted access to MULES and NCIC; however, the Missouri State Highway Patrol has indicated that court personnel cannot conduct this inquiry. This may require a statute change.

### 3. Foster and Relative Care, Permanency

#### ■ Kinship Care

The work group supported the recommendations contained in several of the reports and testimony provided to the Commission that priority must be given to placing children with their relatives or kin (neighbor, family friend, etc.) whenever it is possible to do so. Research demonstrates that when children are placed with relatives/kin, they are less traumatized, are safer, and are more likely to achieve timely permanency.

Section 210.565 RSMo. states that relatives of a child shall be given preference and first consideration for foster home placement. However, in Missouri, 24% of placements are made with relatives/kin, compared to Illinois' 36% relative/kin placement rate.

One way to increase the likelihood of relative placement is through a program such as the Annie E. Casey Family to Family program and its Team Decision-Making (TDM) process. The purpose of the TDM is to determine if placement can be avoided. Through this process, relatives are more likely to come forward as temporary out-of-home placement providers. It also has been shown that if the TDM model is utilized early in the assessment process, relatives are more likely to provide temporary care for the child and eliminate the need for placement in the state foster care system. This nationally proven model is going to be tested in St. Louis within the next few months.

The work group also learned that when children must be removed from their homes, there are funding barriers to initially placing them with relatives/kin. The Title IV-E federal funding guidelines state that the federal government will provide 67% of the

funding for a relative/kinship foster home only if it is a fully-licensed foster home. Therefore, children are often placed with a stranger foster family or in a residential facility until their grandmother, aunt, etc., can be licensed.

Finally, many times, relatives are not aware that children have come into care. DFS has an excellent policy in place that outlines the diligent search process for an absent parent. Unfortunately, this process is usually carried out in the latter stages of the case—at the time of the termination of parental rights. The emphasis on locating absent parents should take place at the beginning of the case, and the policy and practice should be expanded to include relatives. The diligent search for absent parents and relatives is a lengthy process and would require up-front staff resources. However, several states have proven that this can be a very cost-effective process, as it shortens children's length of stay in foster care.

#### ■ Alternative Care

The Commission heard testimony and received documentation regarding several alternative care issues. For the purposes of this interim report, the work group focused on the issues pertaining to background checks of foster parents, continuum of care services for children in residential care and dual licensing of foster and adoptive families.

Currently, the Missouri foster parent licensing process includes criminal background checks, 27 hours of training and an extensive home study. Furthermore, each parent must have updated background checks at the time of re-licensure (every two years), but Missouri does not require fingerprinting. There is a cost to fingerprinting (\$22 per adult). The average foster family in Missouri has an annual household income of \$21,000 to \$30,000.

Since every person in the household 18 years and older must be fingerprinted, the cost could deter some potential families.

It was agreed that residential care providers in Missouri provide excellent treatment to those children in need of specialized clinical services. However, once treatment is complete, many children languish in residential care because there are not enough step-down foster homes (e.g. career or behavioral foster homes) to care for them. Increasing the number of these homes will assure children are placed in the least restrictive, most appropriate placement and also will allow the residential care providers to serve those children who truly need this specialized care and treatment.

Finally, although DFS supports a foster/adopt license, the work group was advised that most families are forced to choose either a foster care or an adoption license. This is an inefficient use of resource families, resulting in underutilized foster or adoptive homes. Furthermore, up to 80% of children who become legally freed for adoption are adopted by their foster parents. These families are required to return to training and their home studies must be updated, which is an additional expense for the state and a delay in the child's permanency outcome. The work group was divided over this issue and requests that the Commission consider it for further review.

#### ■ Best Practice

A frequent theme heard by the Commission was that there are many good policies in place but practice is not uniform. Also, the Commission discussed several of Missouri's well-designed programs that have been in place for some time, but which are now in need of strengthening, including citizen review panels, practice development reviews (PDRs), parent/child visitation and Family Support Team meetings. In addition, the work group spent considerable time

discussing the role of privatization in strengthening and improving the child welfare system.

Missouri has three citizen review panels in place as required by the federal Child Abuse Prevention and Treatment Act (CAPTA): the Child Fatality Review Board, the Child Abuse and Neglect Review Board and the Children's Justice Act Task Force. The panels are charged with examining the policies, procedures and specific cases handled by the child protective service agency.

In January 2000, the US Department of Health and Human Services established Child and Family Service Reviews (CFSR) to measure states' performance against national standards regarding child safety, permanency and child and family well-being. The CFSRs also determine if states conform to the requirements of Title IV-B and Title IV-E. Missouri's CFSR is scheduled for December 2003.

The DFS Practice Development Review (PDR) process has helped Missouri prepare for the CFSR. PDRs involve a review of sample cases, to obtain data on how the various aspects of the child welfare system are working to serve a specific child. The local PDRs result in a program improvement plan. It is not clear if these plans are fully implemented. In addition, DFS has placed PDRs on hold due to funding constraints.

Currently, DFS policy requires that visitation with birth parents take place by the 72-hour court meeting. However, the work group recognized that immediate and frequent visits are critical to the child's emotional well-being. In addition, research documents that visitation is critical to maintaining the parent-child relationship and, therefore, to achieving family reunification.

Family Support Team meetings are designed to bring together the birth family and their natural supporters with professionals and community representatives to determine the best course of action for the child and family. Many times the FSTs are held with only the birth parent and the worker present. The work group enthusiastically supports the FST process, but recognizes that all members must participate to make FSTs effective. The time spent developing effective FSTs would clearly be repaid in rapid permanency for children.

The federal government provides 67% of the funding for most of our child welfare programs. But the federal model does not support keeping children with their birth parents because Title IV-B, which provides support for family preservation programs, is

capped, whereas Title IV-E, which provides support for foster care, is not capped.

Currently, 10% of Missouri's foster care cases are managed by private agencies. Early on, the Commission heard testimony about expanding this service, as well as other child welfare services. The work group also reviewed bills recently introduced to the General Assembly and a national study on the privatization of child welfare services (Freundlich & Gerstenzang, October 2002).

Finally, the work group was concerned that services be immediately provided to children upon coming into care. Current DFS policy states that a physical examination be obtained within 24 hours after placement but does not set any specific requirements for any other services, including mental health services.

### **Work Group Recommendations Under Consideration by the Full Commission:**

#### **Kinship Care**

- The Family to Family model, including Team Decision-Making if successful in St. Louis, should be implemented statewide.
- To reduce or eliminate the financial barrier to relative placement, Missouri must immediately explore federal funding options such as Title IV-E waivers or the Title IV-E block grant.
- In the short term, a diligent search pilot project carried out by DFS or a private agency should be implemented in one of the urban areas to test effectiveness.

#### **Alternative Care**

- Background screening procedure must be expanded to include a FBI fingerprint check and a search of civil court records. The fingerprinting requirements must be implemented immediately to assure the safety of Missouri's children, but the costs should not be passed along to potential foster family applicants.
- The number of step-down foster homes must be increased. Because this would be an immediate cost-savings measure and is supported by research as a best-practice method, this must be a short-term priority.
- Require that any Office of Ombudsman established take advantage of the expertise of existing advocacy organizations, and form partnerships with these organizations.

## **Best Practices**

- Citizen Review Panels should be strengthened by increasing their independence and authority. To accomplish this short-term solution:
  - The citizen review panels should be independent of DFS.
  - Each panel should be provided the resources needed to carry out their work.
  - Their work should consist of reviewing specific cases and available data and making recommendations regarding needed systematic changes.
  - Those entities requiring change—DFS, the courts, the legislature and others—should be required to report on how they will address any recommendations or provide reasons for not accepting the recommendations.
  - An annual report shall be submitted to the legislature, the judiciary, the governor and other interested parties.
- The DFS Performance Development Review (PDR) should be revised to include stronger community involvement in the process.
  - A well trained, local team comprised of stakeholders such as DFS staff, court personnel, birth parents, attorneys, foster parents, therapists, health care workers and educators should conduct PDRs, and, ideally, one member should lead the PDR process.
  - An annual report of the program improvement plans shall be submitted to the legislature, the governor, the judiciary, the citizen review panels and other interested parties.
  - DFS must be provided with adequate funding to continue this essential quality assurance tool.
- The DFS policy on visitation must be changed and implemented immediately to allow for parent/child visits within 24 hours of the child's removal, if possible, or 48 hours, at the outset, assuming that visitation would not pose a danger to the child.
- State statutes should be changed immediately to require a Family Support Team meeting prior to every court hearing and evidence presented to the court regarding the FST outcomes and recommendations at all post-adjudication hearings.
- A multi-disciplinary team should be developed to determine federal funding options to support family preservation efforts. Title IV-E waivers or block grants may provide funding relief for family preservation priorities or for relative placements, but this needs careful consideration.
- Expanding privatization in Missouri should be carried out in a planned manner, beginning with a process to determine performance-based contracts. This process, which should be completed on or before 1/1/04, should include input from a broad group of stakeholders, including DFS staff, current private providers, consumers and experts in the area of performance-based contracts. The courts should be engaged in the process at the appropriate time.



When developing performance-based contracts, the following should be considered:

- The "lessons learned" from other states' privatization efforts must be researched and evaluated.
- The strengths and weaknesses of the current system must be evaluated and contracts developed accordingly.
- The required outcomes should be few in number, straightforward and based on pre-privatization data.
- The monetary incentives should be directly tied to these outcomes—not processes.
- Contracts should be awarded in those geographical areas with established agencies.
- Only accredited agencies should be awarded contracts.
- Privatization should not include the hotline/investigation systems. These services must remain with the public agency.
- Both private, contracted agencies and the public agencies should be held to the same performance standards—in cases where available resources are equivalent.

- Practices that emphasize children cannot wait for needed services must be implemented.

#### **4. Judicial /Court**

When Congress enacted Public Law 96-272, the Adoption and Child Welfare Act of 1980, and, more recently, Public Law 105-89, the Adoption and Safe Families Act of 1997, it mandated, among other things, that the state's public child welfare agency assure the safety, permanency and well-being of children. The federal law and accompanying state laws require that DFS (1) make reasonable efforts to prevent removal and (2) make reasonable efforts to reunify children who have been removed from their family or, when that is not possible, make reasonable efforts to finalize another permanency plan for the children.

Congress also recognized the need to hold states accountable for meeting these mandates and determined that state courts were the appropriate entity to do so. As such, these federal laws also placed additional requirements on the courts.

Juvenile and family courts are now responsible for the following:

1. Determining that removal from the home is in the best interest of the child;
2. Determining that the agency's efforts to prevent removal and to return children or to finalize another permanency plan in a timely manner are reasonable;
3. Assuring that a permanency plan for each child is determined within twelve months of the child entering care; and
4. When appropriate, the timely filing of a petition to terminate parental rights.

Missouri currently has no mandatory time frames for holding juvenile court hearings except for the protective custody hearing, that is held only upon request, and the twelve month permanency hearing and subsequent annual permanency review hearings. As a result, it is not unusual for the first court hearing to occur several days, weeks or, sometimes, months from the date the child was removed. This contributes to delays in developing and implementing an appropriate treatment plan for the child and

family, which, in turn, results in some children remaining in care for unnecessarily long periods of time.

This delay in the court process exacerbates already difficult situations. The primary concern raised by parents is that they often have minimal or restricted visitation with their children until the first court hearing.

Another concern of parents is that relatives are not given consideration as temporary placement providers. Finally, many families express that, since hearings are confidential and, therefore, closed proceedings, there is no opportunity for the public to assure that the actions of both the court and DFS serve the best interests of the child.

## **Work Group Recommendations Under Consideration by the Full Commission:**

### **Status Conference**

- Upon a court entering an Order of Protective Custody, the court shall set a status conference within 3 business days. The juvenile officer shall notify the parents or custodian and DFS of the date, time and location of the status conference. Formal service of process is not required, but the court shall inquire at the status conference about notice to any absent party. At the status conference, judicial inquiry shall be made of the juvenile officer, DFS representative (hotline investigator and assigned case manager), parents or custodian, and guardian ad litem concerning issues relevant to removal of the child from the parents, continuation of the child in DFS custody, and services necessary to serve the best interests of the child, including, but not limited to, the following:
  - 1) Can the child be returned to the parent or custodian at this time with services?
  - 2) Has a CASA or GAL been appointed/assigned to the child?
  - 3) Do the parents or custodian qualify for appointed counsel?
  - 4) Has paternity been established?
  - 5) Where is any absent parent or custodian?
  - 6) Did DFS engage in reasonable efforts to prevent removal of the child from the parents or custodian?
  - 7) Did an emergency require the child's removal from the parents or custodian?
  - 8) Are there relatives with whom the child can be placed?
  - 9) What arrangements can be made for visitation with the parent or custodian, siblings and other family members?
  - 10) How can disruption of the child's schooling be avoided?
  - 11) Does the child have special needs for which services should be arranged?
  - 12) Should TANF or Social Security benefits for the child be terminated and the parents be required to pay child support?

Procedures and standard forms are to be established by the Supreme Court.

- The juvenile officer shall notify the parent/s, custodian of the child, or other party of the right to request a protective custody hearing. Upon a request being made and filed, the court shall set and conduct a protective custody hearing within 14 days of the request for hearing. At the protective custody hearing, the court may receive testimony and other evidence relevant to the reasons for removal of the child from the parents or custodian and continuation of the child in DFS custody. Procedures and standard forms are to be established by the Supreme Court.

### **Time Standards**

- Time standards for all hearings should be established. Adjudication hearings shall be within 60 days of the date on which the child is removed from the parents or custodian. The dispositional hearing shall be held within 90 days of the date on which the child is removed from the parents or custodian. Dispositional review hearings shall be held every 90-120 days. A permanency hearing shall be held no later than 12 months after the child is removed from the parents or custodian. Post permanency review hearings (after the child has been in DFS custody for 12 months) shall be held as often as necessary but at least every 6 months.
- A status conference, as well as any required hearing, may be continued by the court upon written motion complying with Supreme Court Rule 65.03 and signed by the party requesting the continuance. For good cause shown, the court may continue any scheduled hearing, but if doing so causes the hearing to be rescheduled outside the requisite statutory period, the court shall issue a written order containing its reasons for granting a continuance.

### **Open Hearings**

- The Supreme Court should establish a 2-year child abuse and neglect (proceedings filed pursuant to 211.031.1 RSMo.) open hearings pilot project in the City of St. Louis, Greene County, Cole County, and two other rural circuits identified by the Chief Justice of the Supreme Court. All hearings conducted in connection with a petition filed pursuant to Section 211.031.1 RSMo. and in connection with a petition for termination of parental rights shall be presumed open. All or any portion of any such hearing may be closed upon a written verified motion filed by any party if the court finds, in its discretion, after argument but without the necessity of an evidentiary hearing, that exceptional circumstances or the best interests of the child mandate that the hearing be closed. Under all circumstances, the testimony of a child during any hearing shall be closed to the public. Additionally, the presiding judicial officer may on his or her own motion close all or any portion of any hearing if, in his or her discretion, exceptional circumstances exist or doing so will serve the best interests of the child. The pilot shall begin January 1, 2004. The Supreme Court shall establish rules, procedures and standard forms.

The State Courts Administrator shall contract with an independent research organization to conduct an evaluation of the pilot projects. The evaluation will result in a report addressing the impact of open hearings upon Missouri's children and families.

- **Open Records**

No specific recommendation is made on whether court records, as distinguished from DFS files, psychological evaluations and GAL reports, should be open to the public. Numerous issues, many of them substantive, such as how to protect the child's confidentiality and how to restrict access where domestic violence or sexual abuse allegations exist, and some of them practical, such as who will copy the requested records and what fee will be charged, must be resolved before court records should be available, in whole or in part, to the public.

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## Conclusion

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The Commission will recommend solutions to be accomplished over the long term in its final report. The Commission proposes to the Supreme Court, the Office of the

Governor and the Missouri General Assembly that the Commission render its final report on June 13, 2003.

## **Appendix A**

### **Communications to the Commission**

- Commission on Children's Justice Orders
- Department of Social Services Comparison of Greene County to Rest of State
- Governor Holden's press announcement of Report of the Investigation of the Child Welfare System in Greene County, Missouri Greene County Report
- Draft of Senate Interim Report on Children's Protective Services and Foster Care
- Department of Social Services Reorganization Chart
- Department of Social Services Fact Sheets
- Letter from Thomas D. Carver
- Minnesota Key Findings from the Evaluation of Open Hearings and Court Records in Juvenile Protection Matters
- Missouri Resource Guide for Best Practices in Child Abuse and Neglect
- Families for Change letter to Chief Justice Limbaugh
- Letter from Patricia Rogers and response from Chief Justice Limbaugh
- Minnesota Order Mandating Public Access to Hearings & Records in Juvenile Protection Matters
- Rough draft of 211.321
- Letter from Representative Holand regarding Nancy Sayers testimony
- Michigan Lieutenant Governor's Children's Commission Letter from Andrea Luby
- Letter from Dee Wampler
- Division of Family Services talking paper on Children's Treatment Fund
- Letter to Senator Bland from Chief Justice Limbaugh regarding Commission membership
- Division of Social Services 2002 Strategic Plan
- Family for Change proposal letter
- Kids Count informational handout
- Missouri Coalition Against Domestic Violence , testimony, 2001 Services Statistics, and Curriculum for Missouri Department of Social Services
- Letter from Doris Lincoln Jackson regarding investigation request
- Letter from Elizabeth Magee regarding comments on Commission
- General Revenue Receipts for FY 2004 Charts
- Thea A. Sherry liaison appointment letter
- Family Group Conferencing Program, Sheila James
- Families Under Fire informational handout
- The Victoria Climbié Inquiry, Chairman Lord Laming
- Statistics on Division of Family Services contacts
- Structured Decision-Making in Missouri
- Statistics of jurisdiction in other states
- West Plains Daily Quill news articles
- Audit of Child Abuse & Neglect Reporting and Response System, Claire McCaskill
- Professionalizing Foster Care informational handout
- Casey Family Programs informational handout
- Illinois Department of Children and Family Services, FY2002-2004 & FY1995-1999 Final Review
- Family Preservation informational handout
- Department of Social Services, Division of Family Services Annual Report for FY2001

- Family to Family – Tools for Rebuilding Foster Care (Team Decision-Making)
- Biographical Statements for Jess McDonald and John Mattingly
- National Coalition for Child Protection Reform, Richard Wexler
- Prevent Child Abuse Missouri informational handout
- Testimony of Mr. Sidney James and Dr. Robert Olson
- Our Little Haven informational handout
- Illinois Department of Children and Family Services, Jess McDonald
- Missouri Juvenile Justice Association position on open hearings
- Testimony of Ruth Ehresman, Citizens for Missouri's Children

**Appendix B**  
**Introduced State Legislation**  
**92<sup>nd</sup> General Assembly**

**House Bills**

|        |  |
|--------|--|
| HB 33  | Makes revisions to licensing requirements for certain types of foster homes, residential care facilities and child placing agencies.   |
| HB 196 | Requires the Department of Social Services to establish and implement an advertising campaign for the recruitment of adoptive and foster care families.  |
| HB 219 | Prohibits assigning Division of Family Services caseworkers working in a specific county to work in another county on a regular basis absent extenuating circumstances.  |
| HB 396 | This bill, also known as the “Dominic James Memorial Foster Care Reform Act of 2003,” makes numerous reforms to DFS foster care policies and practices.  |
| HB 485 | Makes revisions to hotline investigation procedures. The bill also requires court appointed counsel to be awarded a reasonable fee in termination of parental rights cases.  |
| HB 504 | Pertains to opening up juvenile court proceedings and records.   |
| HB 679 | Makes numerous revisions to the state’s foster care system and to the juvenile court process in such matters. The bill proposes extensive revisions to agency policies and practices as well as the juvenile court process and includes mandatory court hearings and time frames for hearings. |

**Senate Bills**

|        |  |
|--------|--|
| SB 43  | Creates the Office of State Ombudsman For Children’s Protection and Services and establishes the Task Force on Children’s Justice.   |
| SB 85  | Requires certain facilities for children to show proof of accreditation and compliance with safety standards.  |
| SB 139 | Returns the Grandparents as Foster Parent’s Program to what was passed in 1999.  |
| SB 306 | Makes revisions to the circumstances for appointment of a Guardian ad litem in domestic relations proceedings.   |
| SB 430 | Pertains to screening, training and licensing of foster parents and makes revisions to DFS policies and practices as they pertain to hotline investigations and foster care cases. |
| SB 453 | Requires students enrolled in institutions of higher education to receive meningitis vaccine.  |
| SB 543 | Extensive bill making several changes to criminal background checks.   |